

Bureau of Indian Affairs, Interior

§ 171.4

taking any action which in his judgment is necessary for the proper operation, maintenance and administration of the irrigation project or unit. In making such judgments, the Officer-in-Charge consults with water users and their representatives, and with tribal council representatives, and seeks advice on matters of program priorities and operational policies. The Officer-in-Charge will be guided by the basic requirement that the operation will be so administered as to provide the maximum possible benefits from the project's or unit's constructed facilities. The operations will insure safe, economical, beneficial, and equitable use of the water supply and optimum water conservation.

(d) The Secretary of the Interior reserves the right to exercise at any time all rights, powers, and privileges given him by law, and contracts with irrigation districts within Indian Irrigation Projects. Close cooperation between the Indian tribal councils, the project water users and the Officer-in-Charge is necessary and will be to the advantage of the entire project.

(e) The Area Director, or his delegated representative, is authorized to fix as well as to announce, by notice published in the FEDERAL REGISTER, the annual operation and maintenance assessment rates for the irrigation projects or units within his area of responsibility. In addition to the rates, the notices will include such information as is pertinent to the assessment, payment, and collections of the charges including penalties and duty of water.

(f) The rates will be based on a carefully prepared estimate of the cost of the normal operation and maintenance of the project. Normal operation and maintenance is defined for this purpose as the average per acre cost of all activities involved in delivering irrigation water and maintaining the facilities.

(g) San Carlos Irrigation Project, Arizona. The administration, rights obligations and responsibilities for the operation and maintenance of this project are set forth in the Repayment Contract dated June 8, 1931 as supplemented or amended, between the San Carlos Irrigation and Drainage District

and the United States as authorized by the Act of June 7, 1924 (43 Stat. 475-476) and the Secretarial Order of June 15, 1938, title "Order Defining Joint, District and Indian Works of the San Carlos Federal Irrigation Project: Turning over Operation and Maintenance of District Works to the San Carlos Irrigation and Drainage District." The regulations appearing in this subchapter apply only to the Indian lands works and in the San Carlos Irrigation Project unless specified otherwise, and should not be interpreted or construed as amending or modifying the District Contract or the Secretarial Order.

[42 FR 30362, June 14, 1977, as amended at 43 FR 8799, Mar. 3, 1978. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 171.2 Irrigation season.

The irrigation season, when water shall be available for irrigation, will be established by the Officer-in-Charge.

§ 171.3 Domestic and stock water.

Domestic or stock water will not be carried in the project's or unit's irrigation system when in the judgment of the Officer-in-Charge such practice will:

- (a) Interfere with the operation and maintenance of the system.
- (b) Be detrimental to or endanger the canal, lateral system and/or related structures.
- (c) Adversely affect the stored water supply for irrigation.

§ 171.4 Farm units.

For the purpose of delivery of water and the administration of the project or unit, a farm unit is defined as follows:

(a) For the Blackfeet, Crow, Fort Belknap, and Fort Peck Irrigation Projects, Montana, and the Colville Irrigation Project, Washington.

(1) Forty (40) or more contiguous acres of land in single ownership with the exception that those original Indian allotments containing less than 40 irrigable acres of the same subdivision of the public land survey shall also be considered farm units.

(2) Forty (40) or more contiguous acres of Indian-owned land under lease to one party.

§ 171.5

(3) Forty (40) contiguous acres in multiple ownership within the same forty (40) acre subdivision of the public land survey.

(b) For the Fort Hall Irrigation Project, Idaho:

(1) Twenty (20) or more contiguous acres of land in single ownership covered by one or more water rights contracts.

(2) Twenty (20) or more contiguous acres of Indian-owned land under lease to one party or being farmed by one Indian.

(3) Ten (10) or more contiguous acres of subdivided land in multiple ownership.

(c) For the Flathead Irrigation Project, Montana: A contiguous area of land in single ownership containing not less than one forty (40) acre subdivision of the public land survey, or the original allotment as established by the Secretary of the Interior and as recorded or amended in the records of the Bureau of Land Management. In the case of leased land, it is defined as a contiguous area under a single lease. For Bureau of Land Management regulations pertaining to Flathead Project, see 43 CFR 2211.8, Flathead Irrigation District, Montana.

(d) For the Wapato Irrigation Project (all units), Washington:

(1) Eighty (80) or more contiguous acres in single ownership at the time of the establishment of the delivery system, or when subsequent changes of ownership result in larger tracts under single ownership and the owner requests that this land be treated as a farm unit, whether covered by one or more water right contracts.

(2) Eighty (80) or more contiguous acres of Indian-owned land under lease to one person or being farmed by one Indian.

(3) Eighty (80) contiguous acres in multiple ownership: *Provided*, That such acreage shall be within the same eight (80) acre subdivision of the U.S. public land survey.

(4) In all cases where an original Indian allotment consisted of less than eighty (80) contiguous acres, such original Indian allotment, whether (i) under single or multiple ownership and/or covered by one or more water right contracts, (ii) under lease to the same

25 CFR Ch. I (4–1–07 Edition)

or different lessees, or (iii) farmed by one or more Indians, shall be treated as a farm unit.

(e) For all other projects or units: An original allotment, homestead, an assignment of unallotted tribal lands, or a contiguous, development lease area.

§ 171.5 Delivery points.

(a) Project operators will deliver irrigation water to one point on the boundary of each farm unit within the irrigation project. The Officer-in-Charge may establish additional delivery points when in his judgment it is impractical for the landowner to irrigate his farm unit from the one delivery point for such reasons as topography, isolation, or cost. When irrigation water is supplied from wells, the delivery point may be established at the well head. Where portions of a farm unit lie at an elevation too high to be watered by gravity flow from the normal elevation of water in the project distribution system, no change will be made in the water level elevation of the project system so as to place water on such land. Where such land has been included in the project, the landowner may install and operate pumping equipment at his own expense to raise the water to such included land from a point designated by the Officer-in-Charge and in accordance with his specifications. If the landowner so installs pumping equipment and pays the construction and maintenance charges, the project will deliver the same amount of water per acre for this land as the project delivers at the delivery point for other lands on the project.

(b) If a farm unit for which a project delivery point has been established is subsequently subdivided into smaller units by the owner or owners of the farm unit, the following provisions apply:

(1) A plat or map of the subdivision must be recorded and a copy filed with the Officer-in-Charge. The plat or map must show how the irrigation water is to be delivered to the irrigable acres in the subdivision.

(2) No further extensions or alterations in the project's system will be provided officials to serve the subdivided units, except as agreed to by